

116TH CONGRESS
1ST SESSION

S. 1434

To prohibit the use of reverse auctions for design and construction services procurements, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 13, 2019

Mr. PORTMAN (for himself and Ms. HIRONO) introduced the following bill;
which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To prohibit the use of reverse auctions for design and construction services procurements, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Construction Con-
5 sensus Procurement Improvement Act of 2019”.

1 **SEC. 2. PROHIBITION ON USE OF A REVERSE AUCTION FOR**
2 **THE AWARD OF A CONTRACT FOR DESIGN**
3 **AND CONSTRUCTION SERVICES.**

4 (a) FINDING.—Congress finds that, in contrast to a
5 traditional auction in which the buyers bid up the price,
6 sellers bid down the price in a reverse auction.

7 (b) PROHIBITION.—Not later than 180 days after the
8 date of the enactment of this Act, the Federal Acquisition
9 Regulation shall be amended to prohibit the use of reverse
10 auctions for awarding contracts for design and construc-
11 tion services.

12 (c) DEFINITIONS.—In this section:

13 (1) The term “design and construction serv-
14 ices” means—

15 (A) site planning and landscape design;

16 (B) architectural and engineering services
17 (as defined in section 1102 of title 40, United
18 States Code);

19 (C) interior design;

20 (D) performance of substantial construc-
21 tion work for facility, infrastructure, and envi-
22 ronmental restoration projects;

23 (E) delivery and supply of construction
24 materials to construction sites; or

25 (F) construction or substantial alteration
26 of public buildings or public works.

1 (2) The term “reverse auction” means, with re-
2 spect to any procurement by an executive agency—

3 (A) a real-time auction conducted through
4 an electronic medium among 2 or more offerors
5 who compete by submitting bids for a supply or
6 service contract, or a delivery order, task order,
7 or purchase order under the contract, with the
8 ability to submit revised lower bids at any time
9 before the closing of the auction; and

10 (B) the award of the contract, delivery
11 order, task order, or purchase order to the of-
12 feror, in whole or in part, based on the price
13 obtained through the auction process.

○